Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ petition No. 4249 (S/S) of 2001

1. Distt. Agricultural Officer, Vikas Bhawan, Roshnabad, Hardwar
2. State of Uttaranchal through Agricultural Secretary, Dehradun, Uttaranchal

..... Petitioners

Versus

1. Presiding Officer, Labour Court, Dehradun
2. Sri Raj Pal Singh S/o Sri Ram Sewak, R/o Gram Daulatpur, District Hardwar

..... Respondents.

Shri Nand Prasad, learned standing counsel for the petitioner.
Shri K.S. Bhaskar, learned counsel for Respondent No.2.

Dated: 05.10.2005

Hon'ble P.C. Verma,J.

This writ petition has been filed by the petitioner –seeking writ of Certiorari quashing the impugned judgment and order dated 15.05.2001 passed by Respondent No. 1 in Misc. Case No.62 of 2001, whereby the learned labour court has ordered to give wages to Respondent No.2 at the rate of Rs. 35/- per day from July, 2000.

2. Brief facts of the case according are that Respondent No.2 filed an application under Section 33-C(2) of the Industrial Disputes Act, 1947 (***hereinafter will be referred to as the Act***) for payment of Rs. 1,27,242/- from the employers as wages on the basis of the Labour Court's award dated 26.02.1999, in which his termination of services was held invalid and unjustified and he was directed to be reinstated with full back wages. The employers' pleaded before the Labour Court that the workman did not report for duty and as such he is not entitled for any back wages. It was also pleaded by them that the Hon'ble High Court, Allahabad vide its order dated 15.09.1999 has directed that the order of back

wages shall remain stayed provided the workman is reinstated in the services and he is being given the salary, The learned Labour Court after perusing the entire evidence on record directed the petitioner to give wages to Respondent No.2 at the rate of Rs.35/- per day from July, 2000. Feeling aggrieved, the petitioner has come up in the writ petition.

3. I have heard learned counsel for the parties and perused the entire evidence on record.

4. The Tribunal after perusing the order dated 19.07.2000 passed by Hon'ble High Court, Allahabad has rightly recorded the finding that the workman was not reinstated in the services and for this reason the employers were served a notice as to why they be not punished for the contempt of court. Hence, the Tribunal rightly held that the workman was not reinstated in compliance of the Courts' order dated 15.09.1999 upto 19.07.2000. The workman in support of his evidence filed a copy of the application-dated 25/26.07.2000 in which he has prayed that he may be given the duty. The workman also produced the copy of applications dated 10.08.2000, 21.08.2000 and 04.09.2000 and 14.03.2000 which was addressed to the employer in which he prayed that he may be reinstated in the services in compliance of the Court's order dated 15.09.1999. The employers also produced the salary chart in respect of the workman from September, 1996 upto January, 1999 for payment of Rs. 18,858/- by which the learned Tribunal rightly held that the work was taken from the workman in the months' of September, 96 and October, 1996, August, 1997 and Juanuary, 1999. Hence, the learned Tribunal rightly held that the workman was employed with the petitioners' from September, 1996 upto February, 1999 and thereafter he was not been reinstated. Consequently, the workman filed the contempt petition in which the notice was issued to

the employer. Accordingly, the Tribunal ordered the petitioners to give wages to Respondent No.2 at the rate of Rs. 35/- per day from 27.07.2000 i.e. from the date on which the workman made the application to the employers for his reinstatement.

5. I do not find any perversity or illegality in the order impugned. The findings recorded by learned Tribunal are findings of fact and does not call for any interference.

6. Therefore, the writ petition is devoid of merit and is herby dismissed. No order as to costs.

(P.C. Verma, J.)

Rajeev Dang